

Fed comments 10-23-09

Federal-State Workplan on California Water Issues  
November 2009-December 2010

Recognizing the national significance of the Bay Delta ecosystem and its importance to 25 million Californians who depend on it to provide reliable water supplies for farms, businesses, communities and environmental benefits, a strong federal-state partnership is essential to address the current crisis and long term water challenges. State and federal water and wildlife agencies have a longstanding working relationship, but there is critical need to advance that partnership with a clear course of action that will achieve a more environmentally sustainable Delta and improve water supply reliability for California.

Recent actions by the Schwarzenegger and Obama administrations demonstrate a clear commitment to dealing with these conflicts between environmental protections and water supply reliability, as well as the impacts of the current drought and long-term climate change impacts on water conditions.

Governor Schwarzenegger has called for a comprehensive water plan that includes water conservation, restoring the Delta ecosystem, fixing Delta conveyance, investing in regional water management, water storage and a water bond. In 2006, he created the bipartisan Delta Vision Blue Ribbon Task Force which identified a series of actions to protect and restore the Delta.

U.S. Secretary of the Interior Ken Salazar has led a renewed federal effort to ensure a sustainable Delta ecosystem and water supply with a Memorandum of Understanding among key federal agencies to use their authorities and apply sound science, creation of a Bay-Delta Leadership Committee and initiation of a National Academy of Sciences (NAS) study of the science associated with Bay Delta fish protection activities. ~~an independent review by the National Academy of Science of two Bay Delta biological opinions issued by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service within the past year.~~

**[Federal Comment: The September 30 DOI/Commerce letter to Sen. Feinstein had a significantly narrower description of the NAS study. We have edited the above paragraph and the entry below to track that letter.]**

The following are the highest priority issues associated with California's immediate and future water needs, and require strong federal-state action, collaboration and commitment over the coming year.

**[Federal comment: The received list is a good framework, but we envision a workplan with more detail and more targeted dates. Ideally, we would identify the relevant responsible agency or agencies. In particular, specific known activities should be listed and scheduled. We have started inserting this where the information is available, but it needs to be filled out by the relevant action agencies.]**

## **1. Bay Delta Conservation Plan**

**[Federal comment: It is unclear, from this abbreviated list, exactly what we think we will be accomplishing or deciding in the BDCP in the next 12-14 months. This needs a discussion between the agency participants about where we think this process will be at that time – what decisions will be ripe, what agreements will be complete, etc.]**

### **A. Progress on EIR/EIS**

- Agreement on revised EIR/EIS schedule
- Identify the achievable milestones by December 2010

**[Suggest including federal ESA and CESA actions here – NCCP, HCP, consultations – assuming that we have an understanding of how those tie into the process and the time line for them.]**

### **B. Interim Actions [Suggest that the interim actions here be moved to Item 4 below – Water Management and Conservation.]**

- Identify projects, expedite review process
- Construction of Habitat Restoration projects in Delta, Suisun Marsh
- Funding, “credit” and permitting issues

### **C. Long-Term Actions**

- Conveyance including moving diversion, tunnel option
- Amount of habitat acreage necessary to achieve program goals and requirements

### **D. Collaboration on Outreach Activities, Public Workshops**

## **2. Science Activities**

### **A. Smelt, Salmon Biological Opinions**

- Focused NAS Study of alternative equally-protective RPAs and potential conflicts between BOs
- Response to NAS initial study
- Support for any additional science review that is needed

**B. Giant garter snake Biological Opinion [Federal Team does not know how this fits in need to understand.]**

- Status of state funding (\$10m)
- Long term conservation strategy

C. Improved coordination of BDCP, CALFED, federal and independent science processes. The agencies will consider consolidating scientific review by and potential co-location of USFWS and NMFS personnel, as well as their state counterparts. The purpose of this effort is to provide a common scientific basis for agency efforts and to address key uncertainties in scientific information with potential to inform management decisions in the near-term and long-term.

D. The agencies will expedite development and implementation of a water quality monitoring and assessment program (WQMAP) in the Delta and its relevant tributaries. This WQMAP will be adopted by the relevant agencies no later than [ ] and will begin implementation immediately thereafter.

E. The agencies will review the best available information available on the impacts of climate change on Delta resources, and will identify and implement projects to begin addressing those impacts. These projects include, at a minimum:

\_\_\_\_\_ - [Placeholder on USGS peat restoration projects]

~~D. Identify and coordinate on 2010 CVP/SWP operational issues and impacts of biological opinions and other regulatory, court actions~~

**[Federal comment: Old “D” above seems to be an operations issue, not a science issue. It has been moved to the operations section below and edited.]**

### **3. Drought Response**

A. Update on federal state drought team role, activities

B. Federal and state allocation coordination and announcements (DWR - Nov 2, Bureau in early 2010) **[Given likelihood of low allocations in initial announcements (esp by SWP), we will need to discuss how best to handle this.]**

C. Governor’s Executive Order/Emergency Proclamation on drought planning, state actions

### **4. Water Management and Conservation**

A. SWP/CVP operational issues: The agencies will continue to support the work of the Water Operations Management Team (WOMT) and its various working groups to identify and resolve operational issues, including any issues arising out of implementation of biological opinions, court orders, or other regulatory mandates. These issues may include:

- Two Gates
- Intertie
- Water Quality

- Groundwater management issues
- Agriculture

B. Water transfers program and NEPA/CEQA documents

- Reclamation has contract in place for 2010 water transfers program
- DWR and Reclamation are developing technical guidance documents
- Need to address contract/funding issues for long-term program

C. Coordination and implementation of existing, new water conservation actions. This will include expediting the following water conservation projects:

- \_\_\_\_\_ - \$160 million in CVP Recovery Act projects [need details and eliminate double-counting]
- \_\_\_\_\_ - Red Bluff Fish Passage Improvement Program pumping plant [ditto]
- \_\_\_\_\_ - \$27 Million for Water Conservation ARRA projects [ditto]
- \_\_\_\_\_ - [Placeholder - Actions under Governor's 20% reduction mandate]

**5. Flood Risk and Levee Stabilization**

The United States Army Corps of Engineers will work with the California Department of Water Resources and affected local agencies to implement the following critical flood and levee projects:

- \_\_\_\_\_ - [This is a placeholder.]

**5. Bay-Delta Leadership Committee**

- A. Workplan, activities, schedule?
- B. Opportunities for state coordination

**[Federal Comment: The suggested language on the Bay-Delta Leadership Committee seems out of place in a state-federal workplan, given that the BDLC is federal only and is up and running. Suggest replacing this item 5 with a directive to develop appropriate state-federal coordination mechanism.]**

**6. Federal-State Coordination**

**The Secretary of the Interior and/or his designee will confer with the Director of the California Department of Water Resources to identify appropriate mechanisms for coordination and communication between the federal Bay-Delta Leadership Committee and the Governor's Water Policy Council on all issues affecting Bay-Delta resources. This consultation will take into account any action by the California legislature on Delta governance issues. The results of this consultation shall be memorialized in writing no later than December 31, 2009.**

## **7. Miscellaneous Provisions**

**[Federal Comment: If this document is going to be signed or represented as an agreement between the agencies, there are a number of standard provisions that will need to be added, from both the federal and state side. At a minimum, this would include the following on the federal side.]**

A. Nothing in this Workplan is intended to restrict the authority of any party to act as provided by law, statute or regulation.

B. This Workplan does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement, against the parties, their officers or employees, or any other person. This Workplan does not direct or apply to any person other than the parties.

C. As required by the Antideficiency Act, 31 U.S.C. Sections 1341 and 1342, all commitments in this Workplan are subject to the availability of appropriated funds. Nothing in this Workplan, in and of itself, obligates any signatory agency to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with agency budget priorities. Any transaction involving reimbursement or contribution of funds between the parties to this Workplan will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.